

SIXTH SPECIAL SESSION, 1998

AN ACT

To provide a period of limited immunity for illegal aliens to report themselves to the Department of Labor and Immigration to enable them to become lawfully employed in the CNMI, and to prohibit prosecution of such aliens for their prior illegal status; and for other purposes.

**BE IT ENACTED BY THE ELEVENTH NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE:**

Section 1. Findings and Purpose. The Legislature finds that the actual number of illegal aliens residing in the Commonwealth is unknown but is estimated to be 5,000. The continued presence of these aliens, contrary to law, is an affront to the territorial integrity of the CNMI as well as that of the United States. The Legislature also finds that the near equal numbers between aliens and the citizenship of the Commonwealth creates an untenable situation where so many have no political voice, a situation exacerbated by such a large illegal alien population.

However, the Legislature finds that a significant portion of the illegal aliens who remain in the Commonwealth have no desire to continue in an illegal status, and that given the opportunity to leave or to acquire legal status would do so if they did they not fear arrest, or other civil or criminal penalty should they come forward. Accordingly, this Act grants limited immunity for illegal aliens who voluntarily come forward for a period of six months following the effective date of this Act.

Section 2. Definitions. As used in this Act unless the context clearly requires otherwise:

(a) "Qualified illegal alien" means any person within the Commonwealth who entered the Commonwealth on or before January 1, 1998 and who is deportable under 3 CMC § 4340, but who at the time of seeking the benefits and protections of this Act has not yet been apprehended or otherwise formally identified as present in the Commonwealth illegally by the Department of Labor and Immigration.

(b) "Alien" means any person who is required under the Nonresident Worker Act to obtain a Nonresident Worker permit in order to be lawfully employed in the Commonwealth.

(c) "Person" when used in reference to an alien means an individual person, and when used in reference to an employer of an alien, it means any individual, partnership, corporation, business, association, organization or any other entity which employs an alien.

Section 3. Grant of Limited Immunity. Notwithstanding any other provision of law, there is hereby declared and created within the Commonwealth of the Northern Mariana Islands a limited immunity for all qualified illegal aliens who are present in the Commonwealth on the effective date of this Act and who voluntarily come forward and report themselves to the Department of Labor and Immigration within six months of the effective date of this Act. Such qualified illegal aliens shall be forever immune from all prosecution arising from their being in or employed in the Commonwealth illegally prior to the date of so reporting. Further, qualified illegal aliens who report themselves under the provisions of this Act shall not, at any later date, on the basis of having the former status of being an illegal alien in the Commonwealth prior to so reporting, be prosecuted, deported, barred, disqualified or prejudiced in any way from seeking or receiving any otherwise lawful employment, or, public or private benefits, rights, or privileges in the CNMI.

Section 4. Assistance to Persons Granted Limited Immunity. The Secretary of Labor and Immigration shall assist aliens who are granted limited immunity under the provisions of this Act in one or more of the following ways:

(a) issue a temporary work permit to the illegal alien so that he or she shall have up to three months under such temporary permit to apply for a full, one year entry and work permit as otherwise provided in the Nonresident Workers Act. An alien holding a temporary work permit may be employed by any employer and in any job classification for the duration of the permit (which shall show an expiration date on its face); Provided, that the employment is registered with the Department of Labor and Immigration and the alien is not employed by more than one employer at a time. If any such alien is unable to obtain lawful employment as provided in the Nonresident Workers Act by the end of this three month temporary work permit, such alien shall be required to leave the Commonwealth to the same extent as any nonresident worker whose nonresident worker permit has expired.

(b) if the alien desires repatriation rather than the above temporary work permit, the Department shall assist such alien to obtain any funds that may be available for the cost of their repatriation from any bonds that are available for such cost and which were posted by a former or current employer of the alien. If such bond funds are not so available, the Department shall pursue any lawful means to obtain from a former employer of the alien, the necessary funds to pay for the cost of repatriating the alien or their family members to the extent that such employer is liable for such costs under CNMI law.

(c) provide other assistance to illegal aliens, and their family members, if any, who wish to depart the Commonwealth immediately.

(d) provide temporary work permits to illegal aliens who wish to file or have filed a labor complaint in a court of competent jurisdiction.

Section 5. Prohibition of Employer Retaliatory Action. No employer of any qualified illegal alien shall take any adverse employment or other action against such qualified illegal alien for coming forward and claiming the benefits of the immunity granted by this Act. If any such employer takes any such adverse action against a qualified illegal alien, such employer shall be liable to such alien for three times the amount of any damages arising as a result of such adverse action.

Section 6. Hiring of Persons Granted Limited Immunity: Relationship to Moratorium. Nothing in Public Law 11-6 shall be construed as prohibiting the hiring of any alien who is granted a temporary work permit under Section 3 of this Act. For purposes of application of the provisions of Public Law 11-6, aliens granted immunity pursuant to Section 3 of this Act and subsequently granted a regular nonresident worker permit shall be deemed the same as aliens holding a valid nonresident worker's permit on the effective date of Public Law 11-6.

Section 7. Employer Limited Immunity. There is hereby declared and created within the Commonwealth of the Northern Mariana Islands a limited immunity, as set forth in this section, for all employers with respect to each qualified illegal alien who comes forward and avails himself or herself of the benefits and protections of this Act by reporting himself or herself to the Department of Labor and Immigration as provided in this Act. Under this employer limited immunity, such employer(s) shall not as a result of the unlawful employment of any qualified illegal alien who obtains limited immunity under this Act, be prosecuted or deported, nor barred, disqualified or prejudiced in any way with regard to the otherwise lawful employment of nonresident workers at any time in the future, or the seeking or receiving of any otherwise lawful public or private benefits, rights, or privileges in the CNMI; Provided

that, such employer pays to the Commonwealth Treasurer, for deposit into the General Fund, not more than 20 days after the qualified illegal alien reports himself or herself to the Department of Labor and Immigration pursuant to this Act, a civil penalty of \$300 on account of the illegal employment of the particular qualified illegal alien. Grant of employer limited immunity with respect to the illegal employment of any one qualified illegal alien shall not under any circumstances be construed as granting, implying, or providing immunity with respect to the illegal employment of any other qualified illegal alien for which the requirements of this section have not been independently met.

Section 8. Promulgation of Rules and Regulations. Prior to the effective date of this Act, the Department of Labor and Immigration shall promulgate rules and regulations to implement this Act.

Section 9. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 10. Effective Date. This Act shall take effect 90 days after its approval by the Governor or upon its becoming law without such approval.

CERTIFIED BY:

/s/ Diego T. Benavente
DIEGO T. BENAVENTE
Speaker
House of Representatives

ATTESTED BY:

/s/ Evelyn C. Fleming
EVELYN C. FLEMING
House Clerk

Approved this 2nd day of September, 1998

/s/ Pedro P. Tenorio
PEDRO P. TENORIO
Governor
Commonwealth of the Northern Mariana Islands